



Texas Department of Insurance

Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name and Address

TWELVE OAKS MEDICAL CENTER
C/O FRANCIS ORR & TOTUSEK, LLP
500 N AKARD STREET SUITE 2550
DALLAS TX 75201

DWC Claim #:
Injured Employee:
Date of Injury:
Employer Name:
Insurance Carrier #:

Respondent Name

HIGHLANDS INSURANCE CO

Carrier's Austin Representative Box

Box Number 01

MFDR Tracking Number

M4-07-8097-01

MFDR Received Date

AUGUST 15, 2007

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "The Hospital's position is that it is entitled to reimbursement pursuant to the terms of the FOCUS Contract, despite Concentra and Highlands attempt to apply DWC discounts to this account."

Amount in Dispute: \$10,068.08

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "It is the hospital's contention that it should be paid \$11,186.08 pursuant to a contract with Focus. The hospital has not shown that it has a contract with Highlands Ins. Co. through Focus. The bill auditor at Coventry indicated that, although the system lists that the hospital has a contract with Focus, the system will not allow a reduction pursuant to the Focus contract. If the bill were paid according to the Focus contract, it would be paid at per diem rate less a further reduction from that amount. The hospital has the burden of proof to show that a contract exists and, if one exists, the amount of reimbursement pursuant to the contract. The hospital has presented no documents that would carry that burden of proof."

Response Submitted by: Beverly L. Vaughn, Attorney-At-Law, 5501-A Balcones Dr., #104, Austin, TX 78731

SUMMARY OF FINDINGS

Date(s) of Service	Disputed Services	Amount In Dispute	Amount Due
August 16, 2006 – August 17, 2006	Outpatient Surgery	\$10,068.08	\$0.00

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §134.1 provides for fair and reasonable reimbursement of health care in the absence of an applicable fee guideline.
3. Texas Labor Code §413.011 sets forth provisions regarding reimbursement policies and guidelines.

4. This request for medical fee dispute resolution was received by the Division on August 15, 2007.
5. The services in dispute were reduced/denied by the respondent with the following reason codes:
 - 45 – Charges exceed your contracted/legislated fee arrangement.
 - 855-002 – Recommended allowance is in accordance with Workers Compensation Medical Fee Schedule Guidelines.
 - 900-021 – Any Network reduction is accordance with the network referenced above.
 - 920-002 – In response to a provider inquiry, we have re-analyzed this bill and arrived at the same recommended allowance.
 - W1 – Workers Compensation State Fee Schedule adjustment.
 - W4 – No additional reimbursement allowed after review of appeal/reconsideration.
 - 197 – Payment adjusted for absence of precertification/authorization. This change effective 1/1/2008; Payment adjusted for absence of precertification/authorization/notification.

Findings

1. The insurance carrier reduced or denied disputed services with reason code 45 – “Charges exceed your contracted/legislated fee arrangement” and 900-021 – “Any Network reduction is accordance with the network referenced above.” On October 27, 2011 the Division requested a copy of the contract between Twelve Oaks Medical Center and the network and a copy of the contract between the network and Twelve Oaks Medical Center. The insurance carrier’s agent submitted a response to the Divisions request stating, “On the dates of service, the carrier did not have a contract with FOCUS not did it have a contract with the health care provider. Attached is an affidavit of non-existence of business records by Duane Stupple, the Claims Supervisor of Highlands Ins. Co., In Receivership stating that there is no record of such contracts.”. The disputed services will therefore be reviewed for payment in accordance with applicable Division rules and fee guidelines.
2. The insurance carrier initially denied the disputed services using denial code 197 – “Payment adjusted for absence of precertification/authorization. This change effective 1/1/2008; Payment adjusted for absence of precertification/authorization/notification.” The denial reason was not maintained up reconsideration.
3. This dispute relates to services with reimbursement subject to the provisions of Texas Administrative Code §134.1, effective May 2, 2006, 31 *Texas Register* 3561, which requires that, in the absence of an applicable fee guideline, reimbursement for health care not provided through a workers’ compensation health care network shall be made in accordance with subsection §134.1(d) which states that “Fair and reasonable reimbursement: (1) is consistent with the criteria of Labor Code §413.011; (2) ensures that similar procedures provided in similar circumstances receive similar reimbursement; and (3) is based on nationally recognized published studies, published Division medical dispute decisions, and values assigned for services involving similar work and resource commitments, if available.”
4. Texas Labor Code §413.011(d) requires that fee guidelines must be fair and reasonable and designed to ensure the quality of medical care and to achieve effective medical cost control. The guidelines may not provide for payment of a fee in excess of the fee charged for similar treatment of an injured individual of an equivalent standard of living and paid by that individual or by someone acting on that individual’s behalf. It further requires that the Division consider the increased security of payment afforded by the Act in establishing the fee guidelines.
5. 28 Texas Administrative Code §133.307(c)(2)(A), effective December 31, 2006, 31 *Texas Register* 10314, applicable to disputes filed on or after January 15, 2007, requires that the request shall include “a copy of all medical bill(s)... as originally submitted to the carrier and a copy of all medical bill(s) submitted to the carrier for reconsideration...” Review of the documentation submitted by the requestor finds that the requestor has not provided a copy of all medical bill(s) as originally submitted to the carrier. The Division concludes that the requestor has not met the requirements of §133.307(c)(2)(A).
6. 28 Texas Administrative Code §133.307(c)(2)(F)(i), effective December 31, 2006, 31 *Texas Register* 10314, applicable to disputes filed on or after January 15, 2007, requires that the request shall include a position statement of the disputed issue(s) that shall include "a description of the health care for which payment is in dispute." Review of the submitted documentation finds that the requestor has not provided a description of the health care for which payment is in dispute. The Division concludes that the requestor has not met the requirements of §133.307(c)(2)(F)(i).
7. 28 Texas Administrative Code §133.307(c)(2)(F)(iii), effective December 31, 2006, 31 *Texas Register* 10314, applicable to disputes filed on or after January 15, 2007, requires that the request shall include a position statement of the disputed issue(s) that shall include "how the Labor Code, Division rules, and fee guidelines impact the disputed fee issues." Review of the submitted documentation finds that the requestor has not discussed how the Labor Code, Division rules and fee guidelines impact the disputed fee issues. The Division concludes that the requestor has not met the requirements of §133.307(c)(2)(F)(iii).

8. 28 Texas Administrative Code §133.307(c)(2)(F)(iv), effective December 31, 2006, 31 *Texas Register* 10314, applicable to disputes filed on or after January 15, 2007, requires that the request shall include a position statement of the disputed issue(s) that shall include "how the submitted documentation supports the requestor position for each disputed fee issue." Review of the requestor's documentation finds that the requestor has not discussed how the submitted documentation supports the requestor position for each disputed fee issue. The Division concludes that the requestor has not met the requirements of §133.307(c)(2)(F)(iv).
9. 28 Texas Administrative Code §133.307(c)(2)(G), effective December 31, 2006, 31 *Texas Register* 10314, applicable to disputes filed on or after January 15, 2007, requires the requestor to provide "documentation that discusses, demonstrates, and justifies that the amount being sought is a fair and reasonable rate of reimbursement in accordance with §134.1 of this title (relating to Medical Reimbursement) when the dispute involves health care for which the Division has not established a maximum allowable reimbursement (MAR), as applicable." Review of the submitted documentation finds that:
 - The requestor's position statement asserts that "The Hospital's position is that it is entitled to reimbursement pursuant to the terms of the FOCUS Contract."
 - The requestor did not submit documentation to support that the hospital had a contract between Focus and Highlands Insurance Co.
 - The requestor did not submit documentation to support that payment of the amount sought is a fair and reasonable rate of reimbursement for the services in this dispute.
 - The requestor did not submit nationally recognized published studies or documentation of values assigned for services involving similar work and resource commitments to support the requested reimbursement.
 - The requestor did not support that payment of the requested amount would satisfy the requirements of 28 Texas Administrative Code §134.1.

The request for additional reimbursement is not supported. Thorough review of the documentation submitted by the requestor finds that the requestor has not demonstrated or justified that payment of the amount sought would be a fair and reasonable rate of reimbursement for the services in dispute. Additional payment cannot be recommended.

Conclusion

The Division would like to emphasize that individual medical fee dispute outcomes rely upon the evidence presented by the requestor and respondent during dispute resolution, and the thorough review and consideration of that evidence. After thorough review and consideration of all the evidence presented by the parties to this dispute, it is determined that the submitted documentation does not support the reimbursement amount sought by the requestor. The Division concludes that this dispute was not filed in the form and manner prescribed under Division rules at 28 Texas Administrative Code §133.307. The Division further concludes that the requestor failed to support its position that additional reimbursement is due. As a result, the amount ordered is \$0.00.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the Division has determined that the requestor is entitled to \$0.00 reimbursement for the services in dispute.

Authorized Signature

Signature

Medical Fee Dispute Resolution Officer

September 27, 2012
Date

YOUR RIGHT TO REQUEST AN APPEAL

Either party to this medical fee dispute has a right to request an appeal. A request for hearing must be in writing and it must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party.**

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.